

AMENDED IN ASSEMBLY JUNE 5, 2013

AMENDED IN SENATE APRIL 17, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 251

Introduced by Senator Calderon

February 12, 2013

An act to amend Section 1633.3 of the Civil Code, and to amend Sections 38.5, 663, 678, 678.1, 10083, 10086, and 10087 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as amended, Calderon. Insurance: notice: electronic transmission.

Existing law authorizes any written notice required to be given or mailed to any person by an insurer relating to any insurance on risks or on operations in this state, with exceptions, to be provided by electronic transmission if each party has agreed to conduct the transaction by electronic means, as provided.

This bill would authorize certain notices *pertaining to workers' compensation to be provided by electronic transmission. The bill would authorize certain notices* and disclosures relating to renewal and conditional renewal of an offer of coverage for automobile and specified property insurance to be provided by electronic transmission if an insurer complies with certain requirements.

Existing law prohibits residential property insurers from issuing or delivering property insurance without offering earthquake coverage. The offer of coverage is authorized to be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential

property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it is required to be mailed to the mailing address shown on the policy of residential property insurance or on the application.

This bill would authorize the offer of earthquake coverage to be made electronically, as provided.

Existing law authorizes an earthquake insurer, at any renewal, to modify the terms and conditions of an existing policy, rider, or endorsement, and that if the insurer modifies the terms and conditions of an existing policy, rider, or endorsement, the insurer is required to provide the insured with the renewal notice in a stand-alone disclosure document stating the changes in the terms and conditions of the insured's existing policy, rider, or endorsement. Existing law also provides that, if an offer of earthquake coverage is not accepted, the insurer or any affiliated insurer is required to offer earthquake coverage every other year in connection with any continuation, renewal, or reinstatement of the policy following any lapse, or with respect to any other policy that extends, changes, supersedes, or replaces the policy of residential property insurance.

This bill would authorize the renewal notice for earthquake coverage and the offer of earthquake coverage required to be made every other year to be made electronically, as provided.

This bill would also delete obsolete cross-references and make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1633.3 of the Civil Code, as amended
- 2 by Section 36 of Chapter 181 of the Statutes of 2012, is amended
- 3 to read:
- 4 1633.3. (a) Except as otherwise provided in subdivisions (b)
- 5 and (c), this title applies to electronic records and electronic
- 6 signatures relating to a transaction.
- 7 (b) This title does not apply to transactions subject to the
- 8 following laws:
- 9 (1) A law governing the creation and execution of wills, codicils,
- 10 or testamentary trusts.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1206 and 1306.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of, Section 3071.5 of, or Part 5 (commencing with Section 4000) of Division 4 ~~of the Civil Code~~ *this code*, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, paragraph (2) of subdivision (a) of Section 663, Section 664, 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678, subdivisions (a) and (b) of Section 678.1, Section 786, 10113.7, 10127.7, 10127.9, 10127.10, ~~10192.18~~, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.

(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude the transaction from the application of this title, but shall not be construed to prohibit the transaction from being conducted by electronic means if the transaction may be conducted by electronic means under any other applicable law.

SEC. 2. Section 38.5 of the Insurance Code is amended to read:

38.5. (a) Any written notice required to be given or mailed to any person by an insurer relating to any insurance on risks or on operations in this state not excepted by *subdivision (a), (b), (c), (d), (e), or (g) of* Section 1851 from the coverage of Chapter 9 (commencing with Section 1850.4) of Part 2 of Division 1 of this code may, if not excluded by subdivision (b) or (c) of Section 1633.3 of the Civil Code, be provided by electronic transmission pursuant to Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code, if each party has agreed to conduct the transaction by electronic means pursuant to Section 1633.5 of the Civil Code. The affidavit of the person who initiated the electronic transmission, stating the facts of that transmission into an information processing system outside of the control of the sender or of any person that sent the electronic record on behalf of the sender, is prima facie evidence that the notice was transmitted and shall be sufficient proof of notice. Any notice provided by electronic transmission shall be treated as if mailed or given for the purposes of any provision of this code, except as provided by subdivision (g) of Section 1633.15 of the Civil Code. The insurance company shall maintain a system for confirming that any notice or document that is to be provided by electronic means has been sent in a manner consistent with Section 1633.15 of the Civil Code. A valid electronic signature shall be sufficient for any provision of law requiring a written signature. The insurance company shall retain a copy of the confirmation and electronic signature, when either is required, with the policy information so that they are retrievable upon request by the

1 Department of Insurance while the policy is in force and for five
2 years thereafter.

3 (b) The offer of renewal required by Sections 663 and 678, the
4 notice of conditional renewal required by Section 678.1, and the
5 offer of coverage or renewal or any disclosure required by Section
6 10086 *and the offer of renewal for a workers' compensation policy*
7 may be provided by electronic transmission if an insurer complies
8 with all of the following:

9 (1) An insurer, or insurer's representative, acquires the consent
10 of the insured to opt in to receive the offer, notice, or disclosure
11 by electronic transmission, and the insured has not withdrawn that
12 consent, prior to providing the offer, notice, or disclosure by
13 electronic transmission. An insured's consent may be acquired
14 verbally, in writing, or electronically. If consent is acquired
15 verbally, the insurer shall confirm consent in writing or
16 electronically. The insurer shall retain a record of the insured's
17 consent to receive the offer, notice, or disclosure by electronic
18 transmission with the policy information so that it is retrievable
19 upon request by the Department of Insurance while the policy is
20 in force and for five years thereafter.

21 (2) An insurer discloses, in writing or electronically, to the
22 insured all of the following:

23 (A) The opt in to receive the offer, notice, or disclosure by
24 electronic transmission is voluntary.

25 (B) That the insured may opt out of receiving the offer, notice,
26 or disclosure by electronic transmission at any time, and the process
27 or system for the insured to opt out.

28 (C) A description of the offer, notice, or disclosure that the
29 insured will receive by electronic transmission.

30 (D) The process or system to report a change or correction in
31 the insured's email address.

32 (E) The insurer's contact information, which includes, but is
33 not limited to, a toll-free number or an insurer's Internet Web site
34 address.

35 (3) An insurer shall include the insured's email address on the
36 policy declaration page.

37 (4) An insurer shall *annually* provide one free printed copy of
38 ~~the notices or documents~~ *any offer, notice, or disclosure* described
39 in subdivision (b) ~~and provide the notices or documents by~~
40 ~~electronic transmission annually~~ upon request by the insured.

(5) An insurer shall maintain a process or system that can demonstrate that the offer, notice, or disclosure provided by electronic transmission was both sent and received consistent with Section 1633.15 of the Civil Code. The insurer shall retain information so that the information is retrievable upon request by the Department of Insurance while the *current* policy is in force and for five years thereafter related to its process or system demonstrating that the offer, notice, or disclosure provided by electronic transmission was sent by the applicable statutory regular mail delivery deadlines and received electronically. The offer, notice, or disclosure provided by electronic transmission shall be treated as if mailed so long as the insurer delivers it to the insured in compliance with the applicable statutory regular mail delivery deadlines.

(6) Upon an insurer receiving information indicating that the offer, notice, or disclosure sent by electronic transmission was not received by the insured, the insurer shall, within two business days, do one of the following:

(A) Contact the insured to confirm or update the insured's email address and resend the offer, notice, or disclosure by electronic transmission. If the insurer elects to resend the offer, notice, or disclosure by electronic transmission, the insurer shall demonstrate the transmission was received by the insured, pursuant to paragraph (5). If the insurer is unable to confirm or update the insured's email address, the insurer shall resend the offer, notice, or disclosure by regular mail to the insured at the address shown on the policy.

(B) Resend the offer, notice, or disclosure initially provided by electronic transmission by regular mail to the insured at the address shown on the policy.

(c) The department may suspend an insurer from providing offers, notices, or disclosures by electronic transmission if there is a pattern or practices that demonstrate the insurer has failed to comply with the requirements of this section. An insurer may appeal the suspension and resume its electronic transmission of offers, notices, or disclosures upon communication from the department that the changes the insurer made to its process or system to comply with the requirements of this section are satisfactory.

SEC. 3. Section 663 of the Insurance Code is amended to read:

1 663. (a) Before policy expiration, an insurer shall deliver or
2 mail to the named insured, at the address shown on the policy, one
3 of the following:

4 (1) At least 20 days before expiration, a written or verbal offer
5 of renewal of the policy, contingent upon payment of premium as
6 stated in the offer.

7 (2) At least 30 days before expiration, a written notice of
8 nonrenewal of the policy, including the statement required by
9 Section 666.

10 (b) (1) An insurer that delivers a verbal offer to renew that is
11 declined by an insured shall, at least 20 days before expiration of
12 the policy, deliver to or mail to the named insured, at the address
13 shown on the policy, a written confirmation of the offer and
14 rejection.

15 (2) An insurer that attempts to satisfy subdivision (a) with a
16 verbal offer to renew, but is unable to contact the named insured
17 directly at least 20 days before policy expiration, shall, at least 20
18 days before policy expiration, deliver to or mail to the named
19 insured, at the address shown on the policy, a written offer to renew
20 the policy, contingent upon payment of premium as stated in the
21 offer.

22 (c) In the event that an insurer fails to give the named insured
23 either an offer of renewal or notice of nonrenewal as required by
24 this section, the existing policy, with no change in its terms and
25 conditions, shall remain in effect for 30 days from the date that
26 either the offer to renew or the notice of nonrenewal is delivered
27 or mailed to the named insured. A notice to this effect shall be
28 provided by the insurer to the named insured with the policy or
29 the notice of renewal or nonrenewal. Notwithstanding the failure
30 of an insurer to comply with this section, the policy shall terminate
31 on the effective date of any other replacement or succeeding
32 automobile insurance policy procured by the insured, or his *or her*
33 agent or broker, with respect to any automobile designated in both
34 policies.

35 (d) The insurer shall not be required to notify the named insured,
36 or any other insured, of nonrenewal of the policy if the insurer has
37 mailed or delivered a notice of expiration or cancellation, on or
38 prior to the 30th day preceding expiration of the policy period.

1 (e) The offer of renewal pursuant to this section may be provided
2 electronically to the email address shown on the policy if the
3 insurer complies with subdivision (b) of Section 38.5.

4 SEC. 4. Section 678 of the Insurance Code is amended to read:

5 678. (a) At least 45 days prior to policy expiration, an insurer
6 shall deliver to the named insured or mail to the named insured at
7 the address shown in the policy, either of the following:

8 (1) An offer of renewal of the policy contingent upon payment
9 of premium as stated in the offer, stating each of the following:

10 (A) Any reduction of limits or elimination of coverage.

11 (B) The telephone number of the insurer's representatives who
12 handle consumer inquiries or complaints. The telephone number
13 shall be displayed prominently in a font size consistent with the
14 other text of the renewal offer.

15 (2) A notice of nonrenewal of the policy. That notice shall
16 contain each of the following:

17 (A) The reason or reasons for the nonrenewal.

18 (B) The telephone number of the insurer's representatives who
19 handle consumer inquiries or complaints. The telephone number
20 shall be displayed prominently in a font size consistent with the
21 other text of the notice of nonrenewal.

22 (C) A brief statement indicating that if the consumer has
23 contacted the insurer to discuss the nonrenewal and remains
24 unsatisfied, he or she may have the matter reviewed by the
25 department. The statement shall include the telephone number of
26 the unit within the department that responds to consumer inquiries
27 and complaints.

28 (b) In the event an insurer fails to give the named insured either
29 an offer of renewal or notice of nonrenewal as required by this
30 section, the existing policy, with no change in its terms and
31 conditions, shall remain in effect for 45 days from the date that
32 either the offer to renew or the notice of nonrenewal is delivered
33 or mailed to the named insured. A notice to this effect shall be
34 provided by the insurer to the named insured with the policy or
35 the notice of renewal or nonrenewal.

36 (c) Any policy written for a term of less than one year shall be
37 considered as if written for a term of one year. Any policy written
38 for a term longer than one year, or any policy with no fixed
39 expiration date, shall be considered as if written for successive
40 policy periods or terms of one year.

1 (d) This section applies only to policies of insurance specified
2 in Section 675.

3 (e) The offer of renewal pursuant to this section may be provided
4 electronically to the email address shown on the policy if the
5 insurer complies with subdivision (b) of Section 38.5.

6 SEC. 5. Section 678.1 of the Insurance Code is amended to
7 read:

8 678.1. (a) This section applies only to policies of insurance
9 of commercial insurance that are subject to Sections 675.5 and
10 676.6.

11 (b) A notice of nonrenewal shall be in writing and shall be
12 delivered or mailed to the producer of record and to the named
13 insured at the mailing address shown on the policy. Subdivision
14 (a) of Section 1013 of the Code of Civil Procedure shall be
15 applicable if the notice is mailed.

16 (c) An insurer, at least 60 days, but not more than 120 days, in
17 advance of the end of the policy period, shall give notice of
18 nonrenewal, and the reasons for the nonrenewal, if the insurer
19 intends not to renew the policy, or to condition renewal upon
20 reduction of limits, elimination of coverages, increase in
21 deductibles, or increase of more than 25 percent in the rate upon
22 which the premium is based.

23 (d) If an insurer fails to give timely notice required by
24 subdivision (c), the policy of insurance shall be continued, with
25 no change in its terms or conditions, for a period of 60 days after
26 the insurer gives the notice.

27 (e) With respect to policies defined in subdivision (b) of Section
28 676.6, in addition to the bases for conditional renewal set forth in
29 subdivision (c), an insurer may also condition renewal upon
30 requirements relating to the underlying policy or policies. If the
31 requirements are not satisfied as of (1) the expiration date of the
32 policy, or (2) 30 days after mailing or delivery of such notice,
33 whichever is later, the conditional renewal notice shall be treated
34 as an effective notice of nonrenewal, provided the insurer has sent
35 written confirmation to the first named insured and the producer
36 of record that the conditions were not met and that coverage ceased
37 at the expiration date shown in the expiring policy.

38 (f) A notice of nonrenewal shall not be required in any of the
39 following ~~situations~~ *situations*:

1 (1) The transfer of, or renewal of, a policy without a change in
2 its terms or conditions or the rate on which the premium is based
3 between insurers that are members of the same insurance group.

4 (2) The policy has been extended for 90 days or less, if the
5 notice required in subdivision (c) has been given prior to the
6 extension.

7 (3) The named insured has obtained replacement coverage or
8 has agreed, in writing, within 60 days of the termination of the
9 policy, to obtain that coverage.

10 (4) The policy is for a period of no more than 60 days and the
11 insured is notified at the time of issuance that it may not be
12 renewed.

13 (5) The named insured requests a change in the terms or
14 conditions or risks covered by the policy within 60 days prior to
15 the end of the policy period.

16 (6) The insurer has made a written offer to the insured, within
17 the time period specified in subdivision (c), to renew the policy
18 under changed terms or conditions or at a changed premium rate.
19 As used herein, “terms or conditions” includes, but is not limited
20 to, a reduction in limits, elimination of coverages, or an increase
21 in deductibles.

22 (g) The notice of conditional renewal described in subdivision
23 (c) may be provided electronically to the email address shown on
24 the policy if the insurer complies with subdivision (b) of Section
25 38.5.

26 SEC. 6. Section 10083 of the Insurance Code is amended to
27 read:

28 10083. (a) The offer of coverage required by Section 10081
29 may be made prior to, concurrent with, or within 60 days following
30 the issuance or renewal of a residential property insurance policy.
31 If the offer of coverage is mailed to the named insured or applicant,
32 it shall be mailed to the mailing address shown on the policy of
33 residential property insurance or on the application. The offer may
34 be made electronically pursuant to Section 38.5. The offer of
35 earthquake coverage shall contain the following language in at
36 least 10-point boldface type:

37 YOUR POLICY DOES NOT PROVIDE COVERAGE
38 AGAINST THE PERIL OF EARTHQUAKE.

39 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
40 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

1 WARNING: THESE COVERAGES MAY DIFFER
2 SUBSTANTIALLY FROM AND PROVIDE LESS
3 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
4 HOMEOWNERS' INSURANCE POLICY. THERE ARE
5 EXCLUSIONS AND LIMITATIONS SUCH AS
6 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,
7 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM
8 CONTAINS ONLY A GENERAL DESCRIPTION OF
9 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
10 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
11 OF YOUR POLICY WILL DETERMINE WHETHER A
12 PARTICULAR LOSS IS COVERED AND, IF SO, THE
13 AMOUNT PAYABLE.

14 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
15 MAY BE PURCHASED AT ADDITIONAL COST ON THE
16 FOLLOWING TERMS:

17 (A) AMOUNT OF DWELLING COVERAGE: _____

18 (B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS
19 BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY
20 PAYMENT FROM YOUR COVERAGE.

21 YOUR INSURANCE COMPANY OR AGENT WILL
22 PROVIDE WRITTEN NOTICE AS TO HOW THE
23 DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR
24 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
25 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

26 (C) CONTENTS COVERAGE: _____

27 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
28 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
29 PAYMENT FOR THIS COVERAGE.

30 YOUR INSURANCE COMPANY OR AGENT WILL
31 PROVIDE WRITTEN NOTICE AS TO HOW THE
32 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
33 PURSUANT TO THIS COVERAGE.

34 (D) ADDITIONAL LIVING EXPENSES: _____

35 (E) RATE OR PREMIUM: _____

36 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
37 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
38 MAILING OF THIS NOTICE OR IT SHALL BE
39 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
40 ACCEPTED THIS OFFER.

1 THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY
2 YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

3 (b) When the insurer, agent, or broker establishes delivery of
4 the disclosure form by obtaining the signature of the applicant or
5 insured, or when an insurer, agent, or broker provides the applicant
6 with the disclosure form and the applicant does not return a signed
7 acknowledgment of receipt within 60 days of the date it was
8 provided, there shall be a conclusive presumption that the insurer,
9 agent, or broker has complied with the disclosure requirements of
10 this section.

11 (c) The offer may contain additional provisions not in conflict
12 with or in derogation of this section.

13 (d) The commissioner may only approve modifications to the
14 language prescribed in subdivision (a) if all of the following
15 conditions are met:

16 (1) The modifications are not in conflict with or in derogation
17 of any provision of this section or Section 10089.

18 (2) The modifications are necessary to ensure that the disclosure
19 statement accurately reflects the coverage actually provided by
20 the policy being offered.

21 (3) The modifications are strictly limited to necessary changes
22 so that the modified disclosure statement is otherwise identical to
23 the disclosure statement prescribed in this section.

24 (e) Use of the language prescribed by this section, or modified
25 language approved pursuant to subdivision (d), shall constitute
26 compliance with the requirements of Section 10081 by an insurer
27 subject thereto.

28 SEC. 7. Section 10086 of the Insurance Code is amended to
29 read:

30 10086. (a) If an offer of earthquake coverage is accepted, the
31 coverage shall be continued at the applicable rates and conditions
32 for the policy term, provided the policy of residential property
33 insurance is not terminated by the named insured or insurer.

34 (1) At any renewal, an insurer may modify the terms and
35 conditions of an existing policy, rider, or endorsement providing
36 coverage against loss or damage caused by the peril of earthquake
37 if the modified terms and conditions provide the minimum
38 coverages required by Section 10089.

39 (2) An insurer that modifies the terms and conditions of an
40 existing policy, rider, or endorsement shall provide the insured

1 with the renewal notice in a stand-alone disclosure document
2 stating the changes in the terms and conditions of the insured's
3 existing policy, rider, or endorsement. The offer of renewal may
4 be made electronically pursuant to Section 38.5. Proof of mailing
5 of the disclosure document by first-class mail to a named insured
6 at the mailing address shown on the policy or application, or proof
7 consistent with Section 38.5 that the offer of renewal of coverage
8 was sent to the named insured or applicant by electronic
9 transmission, creates a conclusive presumption that the disclosure
10 document was provided. The disclosure shall include the following
11 statement in 14-point boldface type:

12 THE COVERAGE IN THE POLICY WE ARE OFFERING
13 YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND
14 SUBSTANTIALLY DIFFERS FROM THE COVERAGES
15 PROVIDED BY YOUR HOMEOWNERS' POLICY.
16 INSURANCE COMPANIES ARE ALLOWED TO RENEW
17 EARTHQUAKE INSURANCE POLICIES WITH COVERAGE
18 THAT IS REDUCED FROM THE COVERAGE YOU
19 PREVIOUSLY PURCHASED. YOU MAY REQUEST A
20 SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR
21 TO MAKING A DECISION TO ACCEPT THIS RENEWAL,
22 AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14
23 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE
24 COPY SHALL NOT CHANGE OR EXTEND THE POLICY
25 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.
26 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS
27 NOTICE.

28 The commissioner shall approve the form of the summary at the
29 time he or she approves the policy. The summary shall include the
30 information contained in subdivision (a) of Section 10083, and
31 may be included with the renewal notice in standard type.

32 The commissioner may approve substantially similar disclosure
33 forms if necessary to accurately disclose relevant information to
34 the policyholder. The commissioner may also approve disclosure
35 forms substantially similar to the disclosure statement required by
36 Section 10083 if necessary to accurately disclose relevant
37 information to the policyholder.

38 (3) If the earthquake coverage is provided by a policy issued
39 by the California Earthquake Authority, the following disclosure
40 shall be provided in 14-point boldface type:

1 CALIFORNIA EARTHQUAKE AUTHORITY POLICY
2 DISCLOSURE
3

4 THIS POLICY IS BEING PURCHASED FROM THE
5 CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE
6 COVERAGE IN THIS CEA POLICY SUBSTANTIALLY
7 DIFFERS FROM THE COVERAGES PROVIDED IN YOUR
8 HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR
9 ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE
10 COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE
11 OR A SERIES OF EARTHQUAKES EXCEED THE
12 AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS
13 NOT COVERED BY THE CALIFORNIA INSURANCE
14 GUARANTY ASSOCIATION. THEREFORE, THE
15 CALIFORNIA INSURANCE GUARANTY ASSOCIATION
16 WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR
17 ASSETS IF THE CEA BECOMES INSOLVENT AND IS
18 UNABLE TO MAKE PAYMENTS AS PROMISED. IN
19 ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO
20 FUTURE SURCHARGES OF THE POLICY PREMIUM IN
21 CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES
22 OF EARTHQUAKES HAS EXCEEDED AVAILABLE
23 RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS
24 MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,
25 YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF
26 THE PREMIUM.

27 (b) If the offer is not accepted, the insurer or any affiliated
28 insurer shall be required on an every other year basis to offer
29 earthquake coverage in connection with any continuation, renewal,
30 or reinstatement of the policy following any lapse thereof, or with
31 respect to any other policy that extends, changes, supersedes, or
32 replaces the policy of residential property insurance. The offer
33 may be made electronically pursuant to Section 38.5.

34 (c) Nothing in this section shall preclude the named insured
35 from terminating the earthquake coverage at any time.

36 SEC. 8. Section 10087 of the Insurance Code is amended to
37 read:

38 10087. (a) As used in this chapter, “policy of residential
39 property insurance” shall mean a policy insuring individually
40 owned residential structures of not more than four dwelling units,

1 individually owned condominium units, or individually owned
2 mobilehomes, and their contents, located in this state and used
3 exclusively for residential purposes or a tenant's policy insuring
4 personal contents of a residential unit located in this state. "Policy
5 of residential property insurance," as defined, shall not include
6 insurance for real property or its contents used for any commercial,
7 industrial, or business purpose, except a structure of not more than
8 four dwelling units rented for individual residential purposes. A
9 policy that does not include any of the perils insured against in a
10 standard fire policy shall not be included in the definition of "policy
11 of residential property insurance."

12 (b) Proof of mailing of the offer by first-class mail addressed
13 to a named insured or applicant at the mailing address shown on
14 the policy or application, or proof consistent with Section 38.5
15 that the offer of coverage was sent to the named insured or
16 applicant by electronic transmission, shall create a conclusive
17 presumption that the offer was made.